

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**COMPANY PETITION NO. 3 OF 2001**

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the Civil Judge?
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NATIONAL STOCK EXCHANGE OF INDIA LIMITED & ANR. - Petitioner(s)

Versus

RAHIL INVESTMENT AND FINANCE LTD. & ANR. - Respondent(s)

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Appearance :

MR. MRUGESH JANI for Petitioner(s) : 1 - 2.
MR. SANJAY M. AMIN for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/12/2005

ORAL JUDGMENT

1. In this petition filed under Sections 433 and 434 of the Companies Act, 1956, seeking winding up of the respondent-Company, M/s.Rahil Investment & Finance Limited, the petitioner had claimed a sum of Rs.47,63,822.82 with interest thereon at the rate of 21% from the date of filing of the petition till the date of payment or realisation.

2. Notices were issued to the respondent-Company; they appeared and filed their reply, but, after hearing the parties and on going through the petition and the affidavit-in-reply, so also the affidavit-in-rejoinder, this Court formed an opinion that the petition deserves to be admitted. It was, accordingly admitted, however, order of publication of advertisement of admission of the petition was deferred under a pious hope that the respondent-Company shall make some payment and would settle the dues, but, despite lapse of two and half years, nothing was done, therefore, by Order dated 14th July, 2005, the Court directed that the petition be advertised in two daily newspapers, namely, "Indian Express" (English) and "Loksatta - Jansatta" (Gujarati), both Ahmedabad Editions, for final hearing on 24th August, 2005.

3. Learned Counsel for the petitioner submits that in accordance with the directions dated 14th July, 2005, the petition was advertised and necessary affidavit was filed in the Court. A copy of the affidavit, etc., have been supplied to the learned Counsel for the respondent. It is to be noted that the affidavit along with the copy of the newspaper is not available in the records. Let the Office make a thorough search of the said affidavit and newspapers and place the same in the records of this matter. If the same are still not available, then, the Office shall make a written request to the learned

Counsel for the petitioner for producing a true copy of the earlier affidavit along with the copy of the newspapers and if the newspapers are not available, then, along with their photostat copies.

4. I have heard the parties finally. The petitioner submits that the respondent-Company has lost its substratum and has become finally unsound. According to them, the dues of Rs.47,63,822.88 have not been paid by the respondent-Company to the petitioner and the respondent Company has not made any efforts either to make any payment or settle the matter.

5. The respondent submits that they also had to recover certain money from the petitioner; on being asked by the Court that whether such details have been given and any effort has been made by the respondent-Company to find out whether such amount has been accredited in favour of the respondent-Company, the learned Counsel for the respondent submits that as the accounts are with the petitioner-Company, they are obliged to produce the same. On being asked by the Court, the learned Counsel for the respondent submitted that the financial condition of the respondent-Company is good, but, he was unable to make a statement that within what time, the respondent-Company can discharge its liabilities *qua* the petitioner.

6. Taking into consideration the totality of the circumstances, especially, when in the last four years, the respondent-Company has not paid anything to the petitioner-Company, they have not tried to settle the accounts, they have not tried to obtain the true copy of the accounts of the petitioner and that they are not in a position to make the payment to the petitioner-company, I am of the opinion that this petition must be allowed. It is worth recording that the respondent-Company, which was a Member of the Bombay Stock Exchange and the National Stock Exchange, has been debarred from both the Stock Exchanges because of their activities and as their licenses have been cancelled, they are unable to carry out any business as brokers/share brokers. The respondent-Company deserves to be wound up. It is, accordingly, ordered. The respondent is directed to be wound up. The Official Liquidator attached to this Court is appointed as an Official Liquidator for the respondent-Company.

Without any loss of time, the Official Liquidator shall take possession of all the properties, movable and immovable, including the Bank Accounts and Books of Accounts with the help and assistance of the Official Valuer. Immediately after the possession of the properties and Books of Accounts are taken, he shall submit a report to this Court. The petition stands finally disposed of.

*kamlesh**

[R.S.Garg, J.]